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EXAMINER
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SINGH, DALZID E

ART UNIT	PAPER NUMBER
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2613

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/25/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

## Office Action Summary

Application No.

09/826,394

Applicant(s)

ANDERSON ET AL.

Examiner

Dalzd Singh

Art Unit

2613

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 18 December 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-78 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 61-74 is/are allowed.
- 6) ☒ Claim(s) 1-9, 14-21, 24-48, 51-55, 57-60 and 75-78 is/are rejected.
- 7) ☒ Claim(s) 10-13, 49, 50 and 56 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

1. In view of the appeal brief filed on 18 December 2006, PROSECUTION IS  
HEREBY REOPENED. A new ground of rejection is set forth below.

To avoid abandonment of the application, appellant must exercise one of the  
following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply  
under 37 CFR 1.113 (if this Office action is final); or,

(2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed  
by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and  
appeal brief fee can be applied to the new appeal. If, however, the appeal fees set  
forth in 37 CFR 41.20 have been increased since they were previously paid, then  
appellant must pay the difference between the increased fees and the amount  
previously paid.

***Double Patenting***

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

3. Claim 61 is rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 14 of U.S. Patent No. 7,095,981. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claim in the continuation are broader than the ones in the patent, *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982) and *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir.1993), broad claim in continuation application are rejected as obvious double patenting over previously patented narrow claims. For example, claim 61 of the present invention is the same as claims 14 of the patent except the detection device is not an infrared light detection device.

***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 29-34 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 29 provides method of using a portable communication system with a phone apparatus having an audio port. The claim further described elements of the transmitter. It is unclear if the claim is intended for apparatus or method of using, therefore is indefinite under 112, second paragraph (see *Ex parte Lyell*, 17 USPQ2d 1548 (Bd. Pat. App. & Inter. 1990)).

Claims 29-34 are rejected under 35 U.S.C. 101 because the claims are directed to neither a "process" nor a "machine", but rather embraces or overlaps two different statutory classes of invention set forth in 35 U.S.C. 101 which is drafted so as to set forth the statutory classes of invention in the alternative only.

6. Claims 29-34 provides for the use of a portable communication system with a phone apparatus having an audio port but, since the claim does not set forth any steps involved in the method/process, it is unclear what method/process applicant is intending to encompass. A claim is indefinite where it merely recites a use without any active, positive steps delimiting how this use is actually practiced.

Claims 29-34 are rejected under 35 U.S.C. 101 because the claimed recitation of a use, without setting forth any steps involved in the process, results in an improper definition of a process, i.e., results in a claim which is not a proper process claim under 35 U.S.C. 101. See for example *Ex parte Dunki*, 153 USPQ 678 (Bd.App. 1967) and *Clinical Products, Ltd. v. Brenner*, 255 F. Supp. 131, 149 USPQ 475 (D.D.C. 1966).

Claims 1, 17, 45 and 51, recites "wherein the transmitter housing is of a size smaller than the communication apparatus and configured to be removably coupled

onto the communication apparatus" It is unclear which apparatus the claim is referring to.

***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 75-77 are rejected under 35 U.S.C. 102(b) as being anticipated by Fazio (US Patent No. 5,768,397).

Regarding claim 75, Fazio discloses portable receiver apparatus, as shown in Figs. 3-5, comprising:

ear retaining means for enclosing a speaker and configured for insertion in the concha of an ear of a user (see Figs. 3 and 4);

infrared light detection means (18) for detecting infrared pulses and generating one or more electrical signals representative of such detected infrared pulses; and

body portion means (Figs. 3 and 4) for enclosing at least demodulation means (30) for converting the one or more electrical signals representative of the detected infrared pulses to an audio signal to power the speaker (24) to produce a sound output, the body portion means extending from a first end to a second end along a body portion axis, wherein the ear retaining means extends from the first end of the body

portion along an axis of predominate sound direction of the speaker that is orthogonal to the body portion axis and further wherein the infrared light detection means is positioned at the second end of the body portion means.

Regarding claim 76, wherein the body portion means comprises means for receiving a removable battery apparatus (it is inherent that body portion comprises means for receiving removable battery in order to operate).

Regarding claim 77, wherein at least one of the body portion means and the removable battery apparatus comprises retaining means to secure the battery apparatus in the body portion means (it is inherent to provide retaining means to secure the battery in order to hold the device together and avoid disassembly in the ear).

### ***Claim Rejections - 35 USC § 103***

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 1-9, 14-21, 24-28 and 35-60 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fazio (US Patent No. 5,768,397) in view of Julstrom et al (US Patent No. 6,694,034).



Regarding claim 1, Fazio discloses a portable communication system for use by a user with a communication apparatus having an audio port, as shown in Figs. 2 and 5, the system comprising:

an infrared transmitter apparatus (Fig. 2), wherein the infrared transmitter apparatus comprises:

at least one audio port configured to receive an audio signal representative of received audio input from the communication apparatus, at least one infrared light emitting device (10), modulation circuitry (14) operable to convert the audio signal to one or more electrical pulses to drive the infrared light emitting device to transmit one or more corresponding infrared pulses, a microphone (4) coupled to the at least one audio port of the infrared transmitter apparatus and operable to generate an audio signal from received sound input of the user, wherein the audio signal generated from received sound input of the user is provided to the audio port of the communication apparatus via the audio port of the infrared transmitter apparatus, and a transmitter housing enclosing the modulation circuitry and the microphone and upon which the at least one infrared light emitting device is mounted (it is inherent that the circuit comprises housing), wherein the transmitter housing is of a size smaller than the communication apparatus and configured to be removably coupled onto the communication apparatus (the device shown in Fig. 2 is coupled to device of Fig. 5 via wireless connection, therefore it can be removably coupled; it would have been obvious to an artisan of ordinary skill in the art to provide different sizes of housing); and

an infrared receiver apparatus (Fig. 5), wherein the infrared receiver apparatus comprises: an infrared light detection device (18) to detect the one or more corresponding infrared pulses and generate one or more electric signals representative of the detected infrared pulses, a speaker (24), demodulation circuitry (30) operable to convert the one or more electric signals representative of the detected infrared pulses to an audio signal to power the speaker to produce a sound output, and a receiver housing enclosing the speaker and the demodulation circuitry and upon which the infrared light detection device is mounted, wherein the receiver housing is formed to be self-supported by the ear of the user (Figs. 3 and 4).

Fazio discloses modulator which modulates the audio signal to drive the infrared light and differ from the claimed invention in that Fazio does not specifically disclose that the modulation circuitry (14) operable to convert the audio signal to one or more constant width electrical pulses. In applicant's disclosure, such constant width electrical pulses are generated using pulse width modulator. In optical communication it is well known to provide pulse width modulator which provides constant width electrical pulses. Julstrom et al teach transmission detection for hearing improvement application using pulse width modulator which is capable to generate constant width electrical pulses. Therefore, it would have been obvious to an artisan of ordinary skill in the art at the time the invention was made to replace the modulator of Fazio with that of pulse width modulator as taught by Julstrom et al. The benefit of using pulse width

modulator is to modulate optical signal using lower power level and hence save battery power.

Regarding claims 2, 18, 36 and 52, Fazio does not disclose that the microphone is coupled to the at least one audio port of the infrared transmitter apparatus via an amplification circuit to provide the audio signal with a gain. However, it would have been obvious to provide amplifier in order to increase signal strength.

Regarding claims 3, 19, 37 and 53, in view of the previous claims, amplifier increases gain of the signal, therefore, it would have been obvious to provide the gain in the range of 2 to 20.

Regarding claims 4, 20, 38, 46 and 54, Fazio shows that wherein the transmitter housing comprises means for removably attaching the transmitter housing to the communication apparatus.

Regarding claims 5, 21 and 39, the combination does not disclose that the transmitter housing is removably coupled onto the communication apparatus by a two faced adhering system. However, since there various ways of attaching the devices, therefore, it would have been obvious to an artisan of ordinary skill in the art to provide two faced adhering system to attach the devices.

Regarding claims 6, 40 and 47, wherein the receiver housing comprises an in the ear receiver housing securable within the concha of the ear (see Fig. 3).

Regarding claims 7 and 41, wherein the receiver housing comprises a behind the ear receiver housing securable by the pinna of the ear.

Regarding claims 8, 24 and 42, shown in Fig. 2, wherein the at least one audio port of the transmitter apparatus configured to receive an audio signal representative of received audio input from the communication apparatus comprises an audio port configured for wired connection to the audio port of the communication apparatus.

Regarding claims 9, 25, 43 and 58, wherein the communication apparatus is a phone apparatus having a microphone/speaker audio port, and further wherein the audio port of the transmitter apparatus is configured for wired connection to the microphone/speaker audio port by a cord/plug connector apparatus (see col. 2, lines 23-38).

Regarding claims 14, 26, 30, 44, 59, the combination does not specifically disclose the size of the transmitter housing comprises a volume less than about 5 cm<sup>3</sup>. However, it would have been obvious to an artisan of ordinary skill in the art to provide small size, such as 5 cm<sup>3</sup> in order to provide compact size.

Regarding claims 15, 27 and 60, wherein the transmitter housing is configured to be removably coupled to a removable battery apparatus (it is well known that the device must have replaceable battery which is removable; see col. 2, lines 45-53).

Regarding claims 16 and 28, the combination disclose power supply and differ from the claimed invention in that the combination does not disclose the removable battery apparatus is configured to receive at least one of button type batteries and cylindrical alkaline batteries. However, since there are various types of power supplies,

therefore it would have been obvious to provide various battery types such as button type or cylindrical alkaline batteries.

Regarding claim 17, Fazio discloses a portable transmitter apparatus for use by a user with a communication apparatus having an audio port, as shown in Fig. 2, the apparatus comprising:

- at least one audio port configured to receive an audio signal representative of received audio input from the communication apparatus;

- at least one infrared light emitting device (10);

- modulation circuitry (14) operable to convert the audio signal to one or more electrical pulses to drive the infrared light emitting device to transmit one or more corresponding constant width infrared pulses;

- a microphone (4) coupled to the at least one audio port of the transmitter apparatus and operable to generate an audio signal from received sound input of the user, wherein the audio signal generated from received sound input of the user is provided to the audio port of the communication apparatus via the audio port of the transmitter apparatus; and

- a transmitter housing enclosing the modulation circuitry and the microphone and upon which the at least one infrared light emitting device is mounted, wherein the transmitter housing is of a size smaller than the communication apparatus and configured to be removably coupled onto the communication apparatus.

Fazio discloses modulator which modulates the audio signal to drive the infrared light and differ from the claimed invention in that Fazio does not specifically disclose that the modulation circuitry (14) operable to convert the audio signal to one or more constant width electrical pulses. In applicant's disclosure, such constant width electrical pulses are generated using pulse width modulator. In optical communication it is well known to provide pulse width modulator which provides constant width electrical pulses. Julstrom et al teach transmission detection for hearing improvement application using pulse width modulator which is capable to generate constant width electrical pulses. Therefore, it would have been obvious to an artisan of ordinary skill in the art at the time the invention was made to replace the modulator of Fazio with that of pulse width modulator as taught by Julstrom et al. The benefit of using pulse width modulator is to modulate optical signal using lower power level and hence save battery power.

Regarding claim 35, Fazio discloses a portable communication system for use by a user with a communication apparatus having an audio port, as shown in Fig. 2, the system comprising:

- a transmitter apparatus, wherein the transmitter apparatus comprises:

- at least one audio port configured to receive an audio signal representative of received audio input from the communication apparatus, modulation circuitry (14) operable to convert the audio signal to one or more constant width electrical pulses to drive a transmitter to transmit one or more corresponding, a microphone (4) coupled to

the at least one audio port of the transmitter apparatus and operable to generate an audio signal from received sound input of the user, wherein the audio signal generated from received sound input of the user is provided to the audio port of the communication apparatus via the audio port of the transmitter apparatus, and a transmitter housing enclosing the modulation circuitry and the microphone, wherein the transmitter housing is of a size smaller than the communication apparatus and configured to be removably coupled onto the communication apparatus; and

a receiver apparatus operable for communication with the transmitter apparatus, wherein the receiver apparatus comprises:

a detection device (18) to detect the one or more corresponding pulses and generate one or more electric signals representative of the detected pulses, a speaker (24), demodulation circuitry (30) operable to convert the one or more electric signals representative of the detected pulses to an audio signal to power the speaker to produce a sound output, and a receiver housing enclosing at least the speaker and the demodulation circuitry, wherein the receiver housing is formed to be self-supported by the ear of the user (see Figs. 3 and 4).

Fazio discloses modulator which modulates the audio signal to drive the infrared light and differ from the claimed invention in that Fazio does not specifically disclose that the modulation circuitry (14) operable to convert the audio signal to one or more constant width electrical pulses. In applicant's disclosure, such constant width electrical pulses are generated using pulse width modulator. In optical communication it is well

known to provide pulse width modulator which provides constant width electrical pulses. Julstrom et al teach transmission detection for hearing improvement application using pulse width modulator which is capable to generate constant width electrical pulses. Therefore, it would have been obvious to an artisan of ordinary skill in the art at the time the invention was made to replace the modulator of Fazio with that of pulse width modulator as taught by Julstrom et al. The benefit of using pulse width modulator is to modulate optical signal using lower power level and hence save battery power.

Regarding claim 45, Fazio discloses portable communication system for use by a user with a communication apparatus having an audio port, as shown in Fig. 2, the system comprising:

a transmitter apparatus, wherein the transmitter apparatus comprises:

at least one audio port configured to receive an audio signal representative of received audio input from the communication apparatus via a wired connection with the audio port of the communication apparatus.

modulation circuitry (14) operable to convert the audio signal to one or more electrical pulses to drive a transmitter to transmit one or more corresponding constant width pulses, and a transmitter housing enclosing at least the modulation circuitry, wherein the transmitter housing is of a size smaller than the communication apparatus and configured to be removably coupled onto the communication apparatus; and



a receiver apparatus operable for communication with the transmitter apparatus, wherein the receiver apparatus comprises:

a detection device (18) to detect the one or more corresponding pulses and generate one or more electric signals representative of the detected pulses, a speaker (24), demodulation circuitry (30) operable to convert the one or more electric signals representative of the detected pulses to an audio signal to power the speaker to produce a sound output, and a receiver housing enclosing at least the speaker and the demodulation circuitry, wherein the receiver housing comprises an opening defined therein configured to receive a removable battery apparatus, and further wherein the receiver housing is formed to be self-supported by the ear of the user (see Figs. 3 and 4).

Fazio discloses a modulator which modulates the audio signal to drive the infrared light and differs from the claimed invention in that Fazio does not specifically disclose that the modulation circuitry (14) is operable to convert the audio signal to one or more constant width electrical pulses. In applicant's disclosure, such constant width electrical pulses are generated using a pulse width modulator. In optical communication it is well known to provide a pulse width modulator which provides constant width electrical pulses. Julstrom et al teach transmission detection for hearing improvement application using a pulse width modulator which is capable to generate constant width electrical pulses. Therefore, it would have been obvious to an artisan of ordinary skill in the art at the time the invention was made to replace the modulator of Fazio with that of pulse

width modulator as taught by Julstrom et al. The benefit of using pulse width modulator is to modulate optical signal using lower power level and hence save battery power.

Regarding claim 48, the combination does not specifically disclose wherein the receiver housing further includes a supporting ear hook extending therefrom. However, it would have been obvious to an artisan of ordinary skill in the art at the time the invention was made to provide supporting ear hook extending therefrom in order to attach on the outer ear.

Regarding claim 51, Fazio discloses a portable transmitter apparatus for use by a user with a communication apparatus having an audio port, as shown in Fig. 2, the apparatus comprising:

at least one audio port configured to receive an audio signal representative of received audio input from the communication apparatus;

modulation circuitry (14) operable to convert the audio signal to one or more electrical pulses to drive a transmitter to transmit one or more corresponding constant width pulses;

a microphone (6) coupled to the at least one audio port of the transmitter apparatus and operable to generate an audio signal from received sound input of the user, wherein the audio signal generated from received sound input of the user is provided to the audio port of the communication apparatus via the audio port of the transmitter apparatus; and

a transmitter housing enclosing at least the modulation circuitry and the microphone (it is inherent that the circuit comprises housing), wherein the transmitter housing is of a size smaller than the communication apparatus and configured to be removably coupled onto the communication apparatus (the device shown in Fig. 2 is coupled to device of Fig. 5 via wireless connection, therefore it can be removably coupled; it would have been obvious to an artisan of ordinary skill in the art to provide different sizes of housing).

Fazio discloses modulator which modulates the audio signal to drive the infrared light and differ from the claimed invention in that Fazio does not specifically disclose that the modulation circuitry (14) operable to convert the audio signal to one or more constant width electrical pulses. In applicant's disclosure, such constant width electrical pulses are generated using pulse width modulator. In optical communication it is well known to provide pulse width modulator which provides constant width electrical pulses. Julstrom et al teach transmission detection for hearing improvement application using pulse width modulator which is capable to generate constant width electrical pulses. Therefore, it would have been obvious to an artisan of ordinary skill in the art at the time the invention was made to replace the modulator of Fazio with that of pulse width modulator as taught by Julstrom et al. The benefit of using pulse width modulator is to modulate optical signal using lower power level and hence save battery power.

Claim 78 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fazio (US Patent No. 5,768,397).

Regarding claim 78, Fazio does not specifically disclose the size of the device housing comprises a volume less than 13 cm<sup>3</sup>. However, it would have been obvious to an artisan of ordinary skill in the art to provide such size, such as 13 cm<sup>3</sup> in order to provide compact size.

### ***Allowable Subject Matter***

11. Claims 61-74 are allowed.
12. Claims 10-13, 22, 23, 49, 50, 55 and 56 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### ***Response to Arguments***

13. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Asada (JP 60154800 A) is cited to show hearing aid.

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dalzid Singh whose telephone number is (571) 272-3029. The examiner can normally be reached on Mon-Fri 9am - 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jason Chan can be reached on (571) 272-3022. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

DS  
April 13, 2007

DALZID SINGH  
PRIMARY EXAMINER  
*Dalzid Singh*